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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,165	09/20/2005	Graham Strauss	9532-2	8329
20792 7590 03/24/2009 MYERS BIGEL, SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627				
EXAMINER				
NGUYEN, JIMMY T				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
03/24/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/532,165

**Applicant(s)**

STRAUSS ET AL.

**Examiner**

JIMMY T. NGUYEN

**Art Unit**

3725

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 14-22, 24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/20/05 & 10/20/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I (claims 1-13, 23 and 25) in the reply filed on February 02, 2009 is acknowledged. The traversal is on the ground(s) that it would not create an undue hardship on the Examiner to search all of the Groups together since the search will be conducted within the same field of search. This is not found persuasive because each of the Groups is having a different feature and each of the features is classified in a different field of search. Therefore, the required search differ, thus the "serious burden" or "undue hardship" has been established.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The metes and bounds of claims 23 and 25 are unclear because it is not clear what part of the distributor plate that Applicant is relying in claim 1 for patentability. Claims 23 and 25 should be rewritten in an independent form with all of the intended limitations.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-9, 12-13, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennewell et al. (hereinafter “Ken”) (WO 01/30501 A1).**

Ken discloses a distributor plate (fig. 2) for an impelling rotor (fig. 1A) of a rotating shaft impactor (see claim 31), where the impelling rotor is a chamber (fig. 1B), the distributor plate being in use held in a fixed position with respect to the impelling rotor (fig. 1B), wherein the distributor plate includes a body and a single wear element only (fig. 7), the single wear element being positioned on the body to alone cover an outer surface of the body (fig. 7) onto which the material would otherwise be received. The outer surface of the wear element is substantially planar (fig. 7), and a surface of the wear element is affixed to a mating surface of the body (fig. 7). The mating surface is substantially planar (fig. 7), the wear element is a plate (page 8, line 29 ...i.e. carbide) or a circular disc (fig. 4) and it is made of wear resistance material (page 8, lines 29). The body includes a projection at its peripheral edge (fig. 5) which is used to locate the wear element on the body, the projection is a peripheral lip (fig. 5). A second peripheral edge of the body is bevelled (fig. 7).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ken in view of Shinohara et al. (hereinafter “Shino”) (US 6,685,794).**

Ken discloses the invention substantially as claimed as set forth above. Ken discloses the wear element is attached to the body by use of an adhesive element (page 7, line 30), Ken does not disclose at least one projection ring acts as a spacer between the body and the wear element. However, Shino teaches that it is old and well known to provide a projection ring (col. 2, line 51) to act as a spacer between two substrates to join the substrates together (col. 2, lines 15-58). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wear element and the body of Ken with at least one projection ring in-between, as taught by Shino, in order to improve the bonding the wear element to the body, since such bonding method is old and well known in the art for bonding two substrates together.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show relevant distributor plates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIMMY T. NGUYEN whose telephone number is (571)272-4520. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Fri. 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on (571) 272- 4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen  
March 20, 2009

/Jimmy T Nguyen/  
Primary Examiner, Art Unit 3725

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